

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

TROY MAJOR,

Plaintiff,

v.

ROBERT TOOLE, *et al.*,

Defendants.

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CIVIL ACTION NO. 5:15-CV-483 (MTT)

ORDER

After screening Plaintiff Troy Major's complaint pursuant to 28 U.S.C. § 1915A, United States Magistrate Judge Stephen Hyles recommended the sexual assault and retaliation claims against Defendant Johnson, the excessive force claims against Defendants Davis and Shoemaker, and the Tier III classification claims be allowed to proceed for further factual development. Doc. 18. Judge Hyles further recommended Major's claims against Doe Defendants; his failure to intervene claims against Defendants Deloach and Smith; his denial of medical treatment claims; his claims regarding grievances; his claims regarding destruction or seizure of personal property; his access to courts claims; his religious freedom claims; and his supervisory liability claims be dismissed without prejudice. Major objected to the Recommendation (Doc. 55), and the Court has conducted a de novo determination of the portions of the Recommendation to which he objects. In his Objection, Major attempts to allege additional facts in support of his failure to intervene claims against Defendants Deloach and Smith. The Court remands the failure to intervene claims to the Magistrate Judge

to consider whether Major should be allowed to amend his complaint to allege these facts and, if so, whether the failure to intervene claims should proceed. To the extent Major's Objection attempts to allege new facts bearing on other claims, this attempt is futile because, even considering the additional facts, those claims lack legal merit.

Excluding the recommendation on the failure to intervene claims, the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the order of the Court.

Accordingly, the claims against Doe Defendants, the denial of medical treatment claims; the claims regarding grievances; the claims regarding destruction or seizure of personal property; the access to courts claims; the religious freedom claims; and the supervisory liability claims are **DISMISSED without prejudice**. The sexual assault and retaliation claims against Defendant Johnson, the excessive force claims against Defendants Davis and Shoemaker, and the Tier III classification claims are allowed to proceed for further factual development. The failure to intervene claims against Defendants Deloach and Smith are **REMANDED** to the Magistrate Judge to consider the additional facts alleged and their effect on those claims.

SO ORDERED, this 29th day of November, 2016.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT